

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**DOCKET NO. 00-00702**

**IN RE:           Proposed Rulemaking to Establish Regulations for the  
Provisioning of Tariff Term Plans and Special Contracts**

**INITIAL COMMENTS OF SPRINT**

United Telephone- Southeast, Inc. (UTSE) and Sprint Communications Company, L.P. (collectively, "Sprint") respectfully submits its initial comments to the Tennessee Regulatory Authority regarding the Proposed Rulemaking to Establish Regulations for the Provisioning of Tariff Term Plans and Special Contracts in Docket No. 00-00702.

Sprint appreciates the opportunity to comment in this important proposed rulemaking proceeding. Sprint recognizes the value in addressing anti-competitive and discriminatory issues that may be associated with the provisioning of tariff term discount plans and special contracts. Sprint as an ILEC, a CLEC, and an IXC believes that it represents many sides of the issues being addressed in the proposed rules. As a result, Sprint believes it provides the Tennessee Regulatory Authority (TRA) with a well-balanced, pro-competition approach.

***Overview of Recommendations:***

Sprint recommends that the Tennessee Regulatory Authority exempt Competitive Local Exchange Carriers (CLECs) and Interexchange Carriers (IXCs) from the proposed rules and regulations governing tariff term plans and special contracts. Furthermore,

Sprint recommends the TRA exempt ILEC contracts negotiated in competitive proposal situations from specific regulations determining the scope of the termination liabilities and term period of the contract. For contracts between the ILEC and end user customers in a noncompetitive situation, Sprint believes its existing business practices coupled with TRA oversight are sufficient in preventing potential discriminatory or anti-competitive issues addressed in this rulemaking.

***Does Sprint utilize contract service arrangements (CSAs) in its Tennessee operating area?***

Sprint's ILEC (UTSE) utilizes CSAs (or special service arrangements) in Tennessee for services not offered elsewhere in its tariffs. Some recent customer applications have been for SONET ring services. In the past eleven years, UTSE has filed 20 special service arrangements and only eight since 1998. Sprint is confident that its past business practices with regard to CSA administration have been and continue to be adequate in meeting its customers' expectations. However, Sprint recognizes the increasingly competitive environment in Tennessee.

***Does Sprint utilize tariff term discount plans (TDPs) in its Tennessee operating area?***

Sprint utilizes tariff term plans in Tennessee for certain network services, including ISDN PRI, frame relay service, ATM service, Centrex service, for specific private line services including TransLink and DigiLink, and for certain special access services.

Both TDPs and CSAs include termination liability charges to ensure end user customers maintain their commitment to service over a period of time in return for which customers receive discounted rates. Termination liability charges apply if a customer disconnects a contractual service prior to the end of the term of its associated contract.

***Does Sprint believe that its existing termination liability provisions are punitive or anti-competitive?***

Sprint does not believe that its existing TRA approved termination liability provisions are either punitive or anti-competitive even though the provisions vary from those in the proposed rule. Within the industry, it is both a common and reasonable practice to anticipate some customer commitment with regard to length of network connectivity in exchange for the provisioning of certain network services at some level of discount over standard month-to-month rates. Both parties benefit from the transaction. The network provider secures the knowledge that its network investment will be optimally utilized over a reasonable time period due to the continuity of provisioning service to the customer. For this commitment, the customer receives a lower price for the service.

***Are termination liability provisions clearly expressed to the customer?***

Yes, Sprint endorses clear and complete disclosure of all contractual terms and conditions with customers establishing term service with Sprint. These are business-to-business arm's length transactions in which termination liability provisions are clearly

spelled-out in both the tariffs (applicable to TDPs) and in the contracts (applicable to TDPs and CSAs). Indeed, the termination liability provisions are conspicuously located within the contract, appearing in the same provision describing the term of the contract. In short, Sprint's business customers are well aware of the liability for terminating service prior to the end of the full term.

***If new rules are ultimately established for termination liability provisions, should they be applied to all facilities-based telecommunications service providers?***

No, any proposed rulemaking established for termination liability provisions should be applicable to incumbent local exchange carriers (ILECs) only. Competitive local exchange carriers (CLECs) are generally new market entrants which do not substantially control the terms and conditions of service within the market, and should not be subject to the same level of regulation that may be deemed appropriate for an ILEC. Neither should interexchange carriers' (IXCs) services be subject to such rules. The market for IXCs is a mature and competitive one, with intensely competitive practices for both the respective IXC and its customer base. Such an evolved competitive market is capable of ensuring that customers get the desired level of contractual control.

***Should these potential rules apply to all CSA arrangements?***

No, certain CSA arrangements and their associated termination liability should not all be subjected to the same requirements. Specifically, if a contract is to be executed as a result of a competitive proposal situation (formal RFP or other evidence of competitive proposals), the rigors of competitive negotiations should govern the process,

exempting such contracts from these rules. Additionally, the proprietary nature of the costing and pricing information of any contract resulting from a competitive proposal process should be protected by the regulatory body.

***Does Sprint contemplate that separate treatment of contractual exemptions for competitive bid situations would exacerbate the volume of contracts coming before the TRA for review and approval?***

No, Sprint believes excluding contracts that result from competitive proposal situations would significantly reduce the number of contracts the TRA must approve. Allowing competitive market pressures to enforce the continuation of sound business practices with regard to those contractual terms and conditions would protect the interests of Tennessee consumers opting into contractual arrangements.

***Can Sprint foresee any other circumstances where the TRA may wish to allow contract review treatment outside the scope of these proposed rules?***

Sprint believes that the TRA should allow rule-impacted ILECs to petition the TRA for exclusionary status on a case-specific basis if warranted by special circumstances.

***Should there be limitations established on the use of termination liability provisions associated with TDPs?***

Sprint believes that its existing business practices coupled with TRA oversight of tariff language changes that are required for existing termination liability provisions are

adequate guidelines for protecting both the customer and the network provider.

However, should this rulemaking establish specific Tennessee rules with regard to contractual terms and termination liability, then Sprint has certain issues it wishes to raise before the TRA.

***Does Sprint have specific concerns with limitations on the length of contracts?***

While Sprint is aware that short term contracts have been encouraged , Sprint has encountered circumstances where customers specify longer contractual periods for sophisticated services that are exclusive and costly. A request for a seven year contract period is not uncommon to meet customer expectations. If the network application is very complex, costly to install, and dedicated for the use of a specific customer application, constraints in the form of a predetermined capped level of termination liability may prevent a customer from being able to obtain the needed service. This is one situation that might warrant special treatment of contractual termination liabilities to insure the provider recoups dedicated investment related to this customer contract.

***If new rules are instituted which unnecessarily limit termination liabilities, what is the potential impact on the market?***

If rules are instituted that do not allow for sufficient termination liabilities, one possible outcome is excessive churn of those customers from network provider to network provider. Excessive churn between competing network providers benefits neither the customer nor the competing providers in the long run. Customer acquisition costs among all network providers are likely to increase markedly over time. From a

network service provider standpoint, networks are underutilized with non-optimal use of limited capital resources, while at the same time customer-generated revenue is less than anticipated. From a customer perspective, the growth of acquisition costs within a market will likely result in higher service fees to reflect the sustainable margins in providing the services.

***What other equitable alternatives might be available to the telecommunications marketplace to avoid non-economically beneficial churn of the available customer base?***

Sprint would support the option of a “fresh look” window in appropriate circumstances. Such a situation might exist where new market entrants significantly alter the previously existing market parameters.

***In conclusion:***

Sprint believes that if the TRA has concerns about a level playing field for new market entrants that a limited application of a “fresh look” contractual window will best foster competitive and fair market alternatives for its customer base in Tennessee. However, if the proposed rules are determined to be appropriate, at a minimum, they should be modified to exclude IXCs and CLECS, exempt from the rule ILEC contracts in competitive situations and term liabilities should not be capped at a certain percentage. It is Sprint’s belief that its existing incumbent local exchange company practices regarding contract service arrangements and termination liability applications are equitable and meet customer expectations. Should the TRA determine that these new rules should

apply to ILEC contractual practices, however, Sprint would appreciate an opportunity to further address these issues and provide more specific modifications to the proposed rules.